UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/NGO/15
4 February 1994

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 12 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 February 1994]

The situation of human rights in Guatemala

1. The International Federation of Human Rights (IFHR) and its correspondent, the Human Rights Commission of Guatemala (CDHG), wish to draw the Commission's attention to the phenomenon of detention in Guatemala, an essential element of a number of human rights violations that include torture, disappearances and executions.

Clandestine prisons

2. In Guatemala, there are two types of prisons: the legally established detention centres and the clandestine prisons. The latter constitute a link in the clandestine apparatus of repression, a complex and well-structured secret system, which seeks to conceal the identity of the actual perpetrators and the intellectual authors of summary executions and enforced disappearances of thousands of Guatemalans, in order to ensure their impunity.

3. Opponents of the system are taken to these illegal and secret locations, after having been arbitrarily captured by the notorious "death squads". The victims include many members of organizations of the people and trade unions, defenders of human rights, university students, professional people and members of religious orders who are working to improve the economic and social situation of the needy, as well as ordinary people who have had any disagreement with elements of the regular security forces or of the above-mentioned clandestine apparatus; and common repeat offenders; informers and the actual perpetrators of the crimes referred to also become victims if they do not show obedience or if they learn too much.

4. This was stated in testimony given before the Human Rights Commission of Guatemala (CDHG) by a former member of the Military Intelligence Division, Julio Cresencio Sam Batres, identification document No. G-2-260-92, issued in Cuyotenango by Military Zone No. 1316 of Suchitepéquez, Retalhuleu. He explained the army's method of carrying out the extrajudicial executions and arbitrary detention of persons who are taken to clandestine prisons, torture and enforced disappearances, and he described in detail how the clandestine apparatus of repression works.

5. The university student, Sergio Fernándo Archila also gave evidence before the CDHG in May 1993. He had been held in a clandestine prison, presumably at the Cobán Military base, where he was tortured. He saw there other persons who had been arbitrarily detained without being brought to trial. All of this is in violation of articles 1 (1), 3, 4, 5, 7, 8, 11, 16, 22, 24 and 25 of the American Convention on Human Rights and articles 1, 2, 3, 5, 6 and 7 of the Inter-American Convention to Prevent and Punish Torture.

6. Both national and international human rights organizations have obtained further proof of the existence, operation and organization of this clandestine apparatus. The Inter-American Commission on Human Rights (ICHR) asserted that "the secrecy with which the armed forces and the security forces operate in committing human rights violations is another extremely significant factor contributing to impunity".

7. One of the few persons who have come out of those clandestine prisons alive is the American nun, Dianna Mae Ortiz, who was released when her torturers realized what her nationality was. Her evidence, in which she describes the humiliation to which she was subjected, is now known worldwide. Nevertheless, the judicial proceedings which she has initiated against her capturers and torturers have encountered many obstacles.

8. Persons arbitrarily captured or made to disappear may be executed extrajudicially or may die in confinement as a result of cruel treatment or from lack of care. The daily appearance, in different parts of the country, of unidentified bodies, with traces of torture and cruel death, often with their hands and feet tied, killed by a coup de grâce, confirms the existence of this practice. Of these cases the Commission recorded a total of 53 in 1993, 25 of which occurred between June and December, during the Government of President de León Carpio. Enforced disappearances are now fewer in number (48 were recorded by the Commission in 1993). These disappearances often become executions within a short time, sometimes within hours (in 1993, 26 persons who had disappeared were found executed).

9. Another case which illustrates the treatment of persons arbitrarily captured is that of Mario Polanco, a leader of the Mutual Support Group (GAM), one of the organizations for the defence of human rights which has been most severely repressed and intimidated by the Government. On 10 December, after attending a march to commemorate Human Rights Day, Polanco was stopped by five heavily armed men who forced their way into his vehicle and took him to a house in Zone 14. He was held there by his captors for two hours, during which time he was severely beaten, tied hand and foot and interrogated about his involvement in the Group. A cheque which he had was taken from him and cashed the following day by a man who used a false identification card to identify himself at the bank and who is known as a member of the security forces. The description of him matches that of one of Polanco's captors. The case has not been clarified by the competent authorities.

Prisoners of war

10. We believe that, for a proper evaluation to be made of disappearances in Guatemala, this information should be circulated, although the matter also falls within the purview of the International Committee of the Red Cross (ICRC), as established in the Geneva Conventions and Additional Protocols, which have been signed by the State of Guatemala.

11. Under the previous Government, at different times, the army brought before the press and television guerilla fighters or alleged guerilla fighters whom they had captured and whom they said had "surrendered" to the army and had "availed themselves of the amnesty". Thus, Maritza Urrutia, a participant in the rebel movement, was captured on 23 July 1992 and later shown on television reading a text prepared by her captors. Mrs. Urrutia, succeeded in leaving the country under diplomatic protection. She subsequently gave testimony before international organizations and described the cruel treatment to which she had been subjected at the place where she was detained. Rebels captured by the army were compelled to give false testimony before the Guatemala media in the months which followed.

12. In February 1993, two prisoners of war managed to escape at different times. They were Santiago Cabrera Lopez, who had been in captivity for more than a year and a half, and Jaime Adalberto Augustin Recinos who was held for three months. They gave testimony before the United Nations Commission on

Human Rights in February 1993, providing details of the places where they had been held in clandestine prisons, and the names and ranks of the members of the army intelligence service (G-2) which had captured them and subjected them to extrajudicial interrogation and physical torture, as well as psychological and mental manipulation aimed at converting them into counter-insurgency collaborators. Cabrera and Recinos told of other prisoners whom they had seen and who were in conditions similar to those which they suffered. Appeals were made for 35 prisoners of war to be shown but they were denied. One of the prisoners is Efrain Bámaca Velásquez, the Commander Everado, who was captured alive on 11 March 1992 and whom the army reported killed in combat.

13. The wife of Bámaca Velásquez, the American lawyer Jennifer Harbury, obtained the support of United States congressmen and succeeded in exhuming the body which was alleged to be that of her husband, whom the army had reported as having died in combat. The body was that of another person, and this increased her suspicion that her husband might still be held prisoner in one of the clandestine detention centres. The earlier description of the body that had been buried, given previously by Ramiro de León, the then Procurator for Human Rights, was an exact detailed description of Bámaca Velásquez. The question therefore is how did this description was obtained.

14. On 15 October 1993, the President of the Inter-American Commission on Human Rights called on the Government of Guatemala to take measures to protect the above-mentioned secret prisoners and any others who might be detained in the future. The measures include the proper humanitarian treatment of detainees; ensuring that prisoners are brought before the appropriate legal authorities as provided for in the national law and the international commitments of Guatemala, in both future cases and in the cases of the persons already detained, who have not been placed under the jurisdiction of the competent judges; serious and effective government investigation of the above-mentioned cases, including examination of the witnesses, with the intervention of independent experts who will guarantee the required impartiality; giving any persons who may be detained as a result of the counter-insurgency struggle and who are serving in the armed forces the opportunity to receive legal counsel, enabling them to take informed and voluntary decisions on their legal options. The Commission also requested the Government to report on the measures adopted and the results obtained.

15. In mid-December 1993, the Government of President de León Carpio, in contempt of the national and international undertakings of the State of Guatemala, replied to the Commission stating that such measures were "unnecessary and inappropriate".

16. The most recent report received concerning the existence of clandestine prisons is the statement made to the Guatemalan press by the defendant Jorge Guillermo Lemus, who said that he had evidence that one of those centres was in the military zone of Poptún, Petén.

17. It is important that the international community should investigate more thoroughly the conditions under which prisoners are held in Guatemala's ordinary prisons. The IFHR and the CDHG therefore consider that the Commission on Human rights should appoint a special rapporteur with the mandate to submit a report under agenda item 12 at the next session of the Commission. In addition, the Government of Guatemala should be called upon urgently to dismantle the clandestine prisons, which are an affront to the right to justice and the right to life and physical integrity; and to guarantee for persons who are being denied justice their right to a fair trial, in conformity with the norms established in international instruments.